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3rd Draft/13 October 1949

MEMORANDUM FOR THE NATIONAL SECURITY COUNCIL

OGC Has Reviewed

I

General Problems.

When the Congress established the Central Intelligence Agency in the National Security Act of 1947, it was the intent of the Congress to place central responsibility for national intelligence on CIA and to assure the coordination of the intelligence activities of the several departments and agencies of the Government in the interest of our national security. To carry out this intent, the law assigned certain enumerated duties to the Central Intelligence Agency to be performed under the direction of the National Security Council.

We have been in operation for two years under this law and certain directives issued by the National Security Council pursuant thereto. It is our opinion that, under the current interpretations placed on the law and the existing implementing ^{directives} authorities, CIA is unable to fulfill its legal responsibilities and duties for reasons set forth below. *General Problems*

There are four broad areas in which CIA has

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been unable to fulfill what it believes to be its mission,
(according to its interpretation of the intent of the)
Congress and the NSC. These are --

(a) The coordination of the intelligence activities of the several Government departments and agencies in the interest of national security, and the full performance of certain duties imposed upon the Agency by law, because
Insert #1 (of the imposition upon CIA of the board of)
directors mechanism of the IAC;

(b) The production, within CIA, of adequate intelligence estimates in the national interest,
#2 due to the (refusal) of the IAC agencies to honor CIA requests for necessary intelligence information, departmental intelligence, or collection
#3 action; ++

(c) The furnishing of adequate national intelligence estimates to the President, the NSC, and other appropriate government officials --

(i) because of the lack of material noted in (b), above, and

(ii) because of the difficulties under present procedures in obtaining concurrence, substantial dissent ^{or} and proper coordination from ^{the} the IAC agencies for

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CIA estimates, intelligence production,
and departmental contributions thereto; and

omit

(d) The inspection of intelligence of the departments and agencies of the Government to the extent and in the manner contemplated by Section 102(e) of the National Security Act.

This failure is due to *limiting CIA's authority to "materials"* lack of clear authorization in present NSC implementing directives.

II

The IAC Mechanism.

Sections 102 (d) (1) and (2) of the National Security Act assign to this Agency the duty to advise the NSC on such intelligence activities of the Government as relate to national security, and to make recommendations to the NSC for the coordination of these activities.

To make the views of the principal intelligence agencies of the Government available to the Director, the NSC established the Intelligence Advisory Committee to advise the Director in matters of intelligence coordination. So that IAC views would also be made known to the NSC, it was further directed that the DCI's recommendations and advice to the NSC should contain the concurrence or non-concurrence of the members of the IAC. However, the IAC

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members have taken the position that they are not advisory to the DCI, but are actually a board of directors, (of which the DCI is but another member). They in effect suggest that the Director serve merely as the executive secretary of the IAC. /

What?
This concept of the IAC mechanism has resulted in the establishment of a Standing Committee to the IAC which first considers any recommendations which the DCI or an IAC member proposes to make (to the NSC). After the Standing Committee has reached agreement or non-agreement upon a given recommendation, the paper is brought before the IAC where, (if necessary) a further attempt at unanimity (of proposal is sought.

and #4
The board of directors principle thus results in unconscionable delays, modification of verbiage in and watered-down versions of CIA recommendations. The resulting compromises produce a final version replete with loopholes, escape clauses and equivocations. These broad, general and, meaningless directives are then forwarded to the NSC for approval and issuance. In the majority of cases, therefore, the recommendations to the NSC are not in fact CIA recommendations as required by law, but are compromises reached at the IAC level in an attempt to secure their unanimous support.

It should be noted that the processes set forth above are subject to delays which run from weeks to months,

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and in some cases to years. By emasculation of any proposed strong directives, the IAC has been able to whittle away the clear intent of the Congress in establishing (CIA) *a central intelligence agency.*

It is felt that CIA will be in default of its statutory obligations if this situation is allowed to continue. It is therefore proposed that NSCID No. 1 be revised to assure that CIA will advise the NSC objectively on matters concerning the intelligence activities of the Government, and make its independent recommendations to the NSC on a firm timetable (to be determined by the Director.) As provided by the law, these recommendations will be the recommendations of CIA only, but may include such suggestions of the IAC agencies as CIA feels it can properly accept under the appropriate provisions of the statute. These recommendations will be accompanied by the concurrence or non-concurrence of the IAC agencies, as provided in *the statute* proposed revision of NSCID No. 1.

The function of the IAC and its Standing Committee will be clearly established as advisory only, so that this Agency may assume that initiative which *it is believed* the Congress and the National Security Council expect of it in the field of intelligence.

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III

Withholding of Information from CIA.

Section 102 (d) (3) places the duty on CIA to correlate and evaluate intelligence relating to the national security, and to provide for its appropriate dissemination within the Government. Objectivity is essential to national intelligence. Departmental intelligence production is inevitably, and even admittedly, colored by departmental policy. It is therefore inherent that CIA receive all raw information material necessary to perform its function of producing national intelligence. This was clearly expressed in the Congressional debates. For this purpose, Section 102 (e) was adopted, providing that such intelligence as relates to the national security shall be made available to the Director for correlation and dissemination. In practice, however, there has been actual withholding of essential information from CIA by IAC agencies, there are blocks in the way of acquisition of essential information by CIA, and countless unjustified delays have been encountered.

Denial of information to CIA has been based on a variety of theories, of which the following are major examples:

(a) The Intelligence Division of the

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Department of the Army has stated that ^{VI} they should be the sole channel for CIA requests and the sole determiner as to the information to be furnished CIA by the Department. ^{is} ID or its Department has ~~They have~~ thus been able to classify certain information deemed important by CIA, but which was received by ID from other divisions of the Army, as "operational" rather than "intelligence" information, and therefore not available to CIA. While ID does not receive all such operational information, in many instances it is made available to it, but in turn ^{is} held back from CIA. This theory of unilateral determination of availability is also held by other IAC agencies. ^{Insert} ID has even gone so far as to suggest that CIA may require only finished departmental intelligence and not items of incoming, unevaluated information. If accepted, this theory would mean that national intelligence would be based on finished departmental intelligence alone, thus vitiating any claim to objectivity.

(b) It is common to withhold from CIA important messages of extreme intelligence value but which are sent back to a department on an

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"EYES ONLY" or highly limited dissemination basis.

(c) New and important subjects may be treated by the departments as special security problems and related material given special handling out of normal channels, thus by-passing CIA.

(d) Many intelligence memoranda prepared for circulation within IAC agencies are not disseminated to CIA, and it has been told that it would not receive them even if requested.

In addition to the actual withholding of intelligence information from CIA, there are certain blocks in the way of the Agency's acquisition of intelligence information.

The first of these blocks is the absence of any authority by which CIA can enforce its requests for information on IAC agencies, or can discover whether its requests are being acted upon and, if so, in what priority they are being considered. Secondly, except for routine disseminations, there has been a (general) failure on the part of the IAC agencies to make spontaneous dissemination of information to CIA. Instead, they await a request for specific information which ~~may or may not then~~ ^{then may not} be honored. Much material which is withheld unless requested is most important, and its withholding effectively cuts down the accuracy and effectiveness of CIA estimates. It is thus often necessary for CIA to discover the existence of this material through indirect means in order that a request for it may be made. ~~Therefore, much important information which~~

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should be spontaneously submitted to CIA is actually so closely held that its very existence is difficult to discover.

Although NSCID No. 3 provides for exchange of information between CIA and the IAC agencies on projects and plans for staff intelligence, this provision is honored by the IAC agencies mainly in the breach. CIA therefore cannot effectively plan intelligence production. NSCID No. 3 requires clarification and revision to remedy this situation.

IAC agencies are producing intelligence for themselves or other departments which CIA should, but rarely does, receive. This is a clear evasion of the law. The IAC agencies take the position that while they will inform us of intelligence work being produced on their own initiative, they will withhold information produced by request or direction on the ground that the latter is a matter under the control of the requesting or directing authority. Most projects fall into the latter category.

The IAC agencies ^{formerly} demand strict compliance with the so-called Third Agency Rule, which prevents the dissemination to a third agency of information in the possession of one agency which has been produced in turn by a second. This rule was necessary when there was no

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central coordinating point, but it should be immediately
abrogated ⁹ insofar as it applies to the DCI, ~~as~~ it is
not only a clear evasion of Congressional intent, but also
a serious block in the collection, production and dissemina-
tion duties assigned to CIA by law.

In addition to the withholding from CIA of
important national intelligence information and the blocks
placed in the way of its acquisition by CIA, this Agency
encounters continual delays in the fulfillment of CIA
collection requirements. CIA must rely virtually 100% on
the IAC agencies for overt collection. The IAC agencies
can and do assign a very low priority to CIA field collection
requests. The delays encountered materially detract from or
destroy the usefulness of such information as may ultimately
be received. As an example, the average delay by the State
Department in merely transmitting CIA collection requests
to the field is 25 days. Further approximately 25% of our
field collection requests to the Department of State have
never been transmitted to the field, on the basis that in the
^{State} Department's opinion the particular request is unnecessary or
would serve no useful purpose.

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IV

Coordination of Intelligence Production.

A most important duty of CIA is the production of national intelligence estimates for the top policy planners of the Government. The problem of securing the material which forms the basis of this production has been set forth above. The present NSCIDs and DCIs establish procedures for coordinating such estimates with the IAC agencies. The resulting system is wholly inadequate, and must be revised. Initial coordination at the working level may be achieved by personnel who are unable to speak for their superiors. Thereafter, CIA is often faced with a dissent from the IAC agencies on completely different grounds from any which were raised at the coordination meeting. This usually results from the fact that some of the IAC agencies cannot concur in an intelligence estimate which in any way conflicts with agency policy. One of the main purposes in establishing CIA, which was stressed before the Congress, was to have available for the President and his top policy advisers national intelligence estimates from which departmental bias would be completely lacking. It has been our experience that it is difficult for the IAC agencies to free themselves not only of departmental bias, but also from their budgetary interest,

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in the preparation of intelligence estimates. Therefore, the coordination of the simplest intelligence estimates take days, often weeks, and sometimes months. The result is not a CIA estimate but a compromise position in which CIA must attempt to screen-out departmental bias.

In addition, dissents to CIA estimates are often in disagreement with the truth or the soundness of the intelligence involved, but are entered under the dictates of a political desk or policy-making officials who insist that the intelligence estimate, no matter how true, must be modified to suit the policies being followed in ^{the} department. That this negates the fundamental principles of intelligence as well as the coordination process goes without saying.

Departmental insistence that CIA estimates include all of their corrections or be faced with a dissent ~~is a~~ ² ~~novel form of blackmail~~ which completely violates the spirit of the National Security Act and the implementing directives of the NSC. It should further be noted that many of these dissents are devoid of constructive criticism or ^{any} positive statement as to position ~~or substance~~.

V

Inspection Authority.

In order to advise the NSC properly regarding

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the coordinating of intelligence activities of the Government and to eliminate the withholding of intelligence material from CIA by the IAC agencies, it is necessary to reaffirm and establish the Director's authority to inspect the intelligence activities of the IAC agencies (with due regard to the exemption afforded the FBI by law).

NSCID No. 1 states that the DCI shall make such surveys and inspections of departmental intelligence material as he may deem necessary. This provision, not having any enforcing authority, has not been effective. The ability of CIA to determine the amount of withheld information is accordingly limited. Proper inspection, under appropriate provisions, would make it possible for the Director to ascertain what information is withheld and to survey overlaps and gaps in the field of foreign intelligence which should be corrected or filled. It would also permit him to make recommendations to the NSC regarding intelligence budgetary requirements.

VI

Command Channels.

A particularly difficult problem in the whole question of carrying out the functions of CIA is that raised particularly by the military agencies concerning

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command channels. It is repeatedly claimed that to authorize the Director to enforce NSC directives on the other intelligence agencies, to establish priorities in collection or production activities of the other agencies, or to inspect activities would be a violation of the normal military concept of command channels. It is submitted that the claim of violation is superficial and that, actually, insistence on the military position is a violation of the will of Congress and the directions of the National Security Council ^{on} in which the Secretaries of Defense and State sit.

(Add on dictation)
VII
Conclusions

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In view of the shortcomings and deficiencies set forth in this paper, (it is recommended that immediate steps be taken to revise the present series of NSCIDs, particularly Nos. 1 and 3. This will then) allow the Director to exercise those authorities which are inherently his by law and essential to the fulfillment of his legal responsibilities.

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REMARKS:

to Childs

*This is based on the ORE + Macle memo
on CIA's Delay + Difficulties*

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